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Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT FAIRBANKS

ROBERT PROBERT and LORETTA E.)
PROBERT, and others similarly situated,)
)
Plaintiffs,)
)
vs.)
)
FAMILY CENTERED SERVICES OF)
ALASKA, INC.)
)
Defendants.)

Case No.: 4:07-CV-00030 RRB

ANSWER TO GENE GRISSOM'S COMPLAINT IN INTERVENTION

COMES NOW Family Centered Services of Alaska, Inc., by and through its attorney of record, the law office of McConahy, Zimmerman & Wallace, and answers the allegations contained in Plaintiff Gene Grissom's complaint as follows:

PARTIES

- 1) Family Centered Services of Alaska, Inc. admits the allegations contained in paragraph 1 of plaintiff's complaint.
- 2) Family Centered Services of Alaska, Inc. admits the allegations contained in paragraph 2 of plaintiff's complaint.

3) Although the individuals Does I to X are not identified, Family Centered Services of Alaska, Inc. denies that any of its corporate officers are jointly and severally liable to plaintiff.

FACTS – GENE GRISSOM

1) Family Centered Services of Alaska, Inc. admits Gene Grissom was hired as a part-time parent, that his salary was increased in 2006 and that he did not receive a salary increase in 2007. All other allegations contained in the paragraph are denied.

2) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 2 of plaintiff's complaint.

3) Family Centered Services of Alaska, Inc. admits the allegations contained in paragraph 3 of plaintiff's complaint.

4) Family Centered Services of Alaska, Inc. admits that Gene Grissom became the primary house parent on January 14, 2007.

5) Family Centered Services of Alaska, Inc. represented to Gene Grissom that the position was exempt from the overtime provisions of the Alaska Wage and Hour Act.

6) Family Centered Services of Alaska, Inc. admits the allegations contained in paragraph 6 of plaintiff's complaint.

7) Family Centered Services of Alaska, Inc. admits the allegations contained in paragraph 7 of plaintiff's complaint.

8) Family Centered Services of Alaska, Inc. admits that Gene Grissom may have worked more than 18 hours a week for some weeks of his employment. He held two separate positions during his employment.

9) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 9 of plaintiff's complaint.

10) Family Centered Services of Alaska, Inc. admits that Gene Grissom was a salaried employee and not paid overtime.

11) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 11 of plaintiff's complaint.

FACTS – FCSA

1) Family Centered Services of Alaska, Inc. admits that paragraph 1 lists some services that it provides.

2) Family Centered Services of Alaska, Inc. admits its income sources include Medicaid and payments from other sources, but is not sure what is meant by per diem payments and therefore denies that portion of the allegation contained in this paragraph.

3) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 3 of plaintiff's complaint.

4) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 4 of plaintiff's complaint.

5) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 5 of plaintiff's complaint.

6) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 6 of plaintiff's complaint.

7) Family Centered Services of Alaska, Inc. does not know what the covered period is, but admits it employed therapeutic house parents other than Gene Grissom.

8) Family Centered Services of Alaska, Inc. is not sure what is meant by the covered period, however, Family Centered Services of Alaska, Inc. denies any violation of the Federal Fair Labor Standards Act. The Federal Act does not apply to the therapeutic parent position that is not the same as a claim of exemption.

9) Family Centered Services of Alaska, Inc. denies that the FLSA is applicable to the therapeutic house parent position and that it violated the FLSA.

10) Family Centered Services of Alaska, Inc. admits that during his employment Gene Grissom worked in excess of 40 hours per week.

11) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 11 of plaintiff's complaint.

12) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 12 of plaintiff's complaint.

13) Family Centered Services of Alaska, Inc. admits that the therapeutic house parent position was classified as exempt from the Alaska Wage and Hour Act. Family Centered Services of Alaska, Inc. does not believe the FLSA applies to the position and therefore did not claim the specific exemption.

JURISDICTION

1) Family Centered Services of Alaska, Inc. admits the allegations contained in paragraph 1 of plaintiff's complaint.

2) Family Centered Services of Alaska, Inc. admits the allegations contained in paragraph 2 of plaintiff's complaint.

COUNT I

ICCONAHY, ZIMMERMAN
& WALLACE
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1) Paragraph 1 is not an allegation but an apparent statement of language from the United States Code and therefore requires no answer.

2) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 2 of plaintiff's complaint.

COUNT II

1) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 1 of plaintiff's complaint.

COUNT III

1) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 1 of plaintiff's complaint.

COUNT IV

1) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 1 of plaintiff's complaint.

COUNT V

1) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 1 of plaintiff's complaint.

2) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 2 of plaintiff's complaint.

3) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 3 of plaintiff's complaint.

4) Family Centered Services of Alaska, Inc. denies the allegations contained in paragraph 4 of plaintiff's complaint.

AFFIRMATIVE DEFENSES

- 1) Plaintiff has failed to state a claim upon which relief can be granted.
- 2) Family Centered Services of Alaska, Inc. reserves the right to raise additional defenses as they are brought to light through the discovery process.

WHEREFORE, Family Centered Services of Alaska, Inc. respectfully requests that:

- A) The Plaintiff takes nothing by way of his complaint;
- B) That judgment enter in favor of Family Centered Services of Alaska, Inc. and against the Plaintiff;
- C) That Family Centered Services of Alaska, Inc. be awarded attorney fees and costs incurred in the defense of the claim; and
- D) For such other relief as the court deem just and equitable.

DATED at Fairbanks, Alaska, this 27th day of March, 2008.

McCONAHY, ZIMMERMAN & WALLACE
Attorneys for Defendants

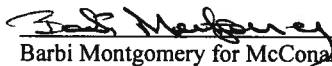
By: 

John Foster Wallace, ABA #9211115

CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing will be electronically served simultaneous with filing to the following attorneys and/or parties of record:

Kenneth L. Covell
Law Offices of Kenneth L. Covell
kcovell@gci.net

 3/27/2008
Barbi Montgomery for McConahy, Zimmerman &
Wallace

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